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December 21, 2020

**VIA E-MAIL**

Christopher J. DiMase  
Nicholas S. Folly  
Tara LaMorte  
Assistant United States Attorneys  
Southern District of New York  
One St. Andrew's Plaza  
New York, NY 10007

Re: Supplemental Disclosure of Potential Defense Expert in *United States v. Weigand, et al.*, 20 cr. 188 (JSR)

Dear Chris, Nick, and Tara:

Defendant Ruben Weigand hereby provides notice, pursuant to Federal Rule of Criminal Procedure 16, that he may call Donald E. Vilfer to provide forensic expert testimony. While, of course, we are unable to determine before hearing the Government's case—particularly, the testimony of the Government's Special Agents, CART Analysts, and related witnesses—if we will in fact call Mr. Vilfer, if we do, we anticipate he would testify about the contents of the three electronic devices seized from Mr. Weigand on the day of his arrest on or about March 9, 2020, along with Mr. Weigand's use of those devices, as outlined herein. A copy of Mr. Vilfer's CV is attached.

**Mr. Vilfer's Qualifications**

Mr. Vilfer has more than twenty years of experience as a computer crimes and mobile device forensic investigator. From 1986 to 2001, Mr. Vilfer served in the Federal Bureau of Investigation. He served as a Special Agent, Supervisory Special Agent for the FBI's Rapid Start team, and eventually Supervisory Special Agent for the FBI's White-Collar Crime and Computer Crimes Squad, in which capacity he supervised the FBI's Computer Forensics Team (CART) and the FBI's participation on the High-Tech Task Force, supervised an international investigation of a series of computer intrusions into financial institutions, oversaw the largest intellectual property rights case in the FBI's history, and led investigations resulting in successful prosecutions in the areas of computer crime, securities fraud, and bank fraud, among others.



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In 2002, Mr. Vilfer founded Vilfer & Associates (dba Digital Evidence Ventures), providing computer and mobile device forensic analysis services, along with electronic discovery and fact-finding services in support of complex litigation across a range of industries. He has been involved in a multitude of projects involving metadata and forensic computer review.

Mr. Vilfer is a member of the Association of Certified Fraud Examiners (ACFE) and obtained the Access Certified Examiner (ACE) certification for computer forensics and decryption.

**Bases for Mr. Vilfer's Testimony**

Mr. Vilfer will base his potential testimony on the contents of Mr. Weigand's electronic devices and Mr. Weigand's use of those devices on his education, training, and professional experience. To the extent he renders opinions, they will be based on those same things, as well as his independent review and consideration of:

1. Forensic images of the three electronic devices seized by the Government from Mr. Weigand on the day of his arrest on or about March 9, 2020, which were produced by the Government to the defense and which reflect the contents of those devices. As indicated in the Government's application for a warrant for the search and seizure of those devices, those three devices are Mr. Weigand's "OnePlus cell phone," his "silver MacBook Pro Model A1502," and his "Apple iPhone." Affidavit at ¶¶ 3, 5, 28.<sup>1</sup>
2. A USB drive that appears to be the source of the materials identified under the 1800 series on the Government's preliminary exhibit list, as of November 3, 2020, and which may be the source of other materials the Government located on Mr. Weigand's Laptop (*i.e.*, 1000 Series–1700 Series). We will produce promptly a forensic image of the contents of this USB drive to the Government.
3. Any discovery produced by the Government to the defense pursuant to Federal Rule of Criminal Procedure 16.

Mr. Vilfer's review of the above is ongoing and he may offer additional opinions, or additional bases for his opinions, as a result of his ongoing review of data and information and in response to evidence, opinions, or testimony presented at trial. As a result, Defendant Weigand respectfully reserves his right to supplement this disclosure at any time before Mr. Vilfer's trial testimony and/or as permitted by the Court.

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<sup>1</sup> We reserve the right to request that Mr. Vilfer be given access to the devices themselves.



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**Mr. Vilfer's Expected Testimony**

Mr. Vilfer will testify as to the files located on the forensic copies of Mr. Weigand's electronic devices, including the timing and manner of their creation, modification, and/or use.

Mr. Vilfer will also testify as to Mr. Weigand's use of those devices during the period relevant to the Indictment, including but not limited to Mr. Weigand's accessing web portals and websites; use of protonmail; document, file, or website creation; file transfer protocol (FTP) access; and Mr. Weigand's communications using those devices.

/s/ Michael J. Gilbert

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*Attorneys for Defendant Ruben Weigand*

***Donald E. Vilfer, JD, CFE***

**Professional:** **Vilfer & Associates, Inc., dba Digital Evidence Ventures** 2002-present. Founding partner for a Firm that emphasizes computer forensics, eDiscovery and fact-finding in support of complex litigation or referral for prosecution. Representative clients include law firms, state and local government, high-tech firms, aircraft manufacturers, financial institutions and school districts. Cases have included investigation of fraud, theft of intellectual property, computer crimes, employee misconduct, sexual harassment, cell phone location and defense of complex fraud. Extensive experience in obtaining and analyzing computer and cell phone forensic evidence. Experience as an expert witness and court-approved expert in multiple state and Federal jurisdictions as well as the International Trade Commission, having provided sworn testimony over 100 times.

**University of California, Davis** April 2018-present (full quarter class periodically as scheduled). Lecturer in Digital Forensics for the Masters in Forensics Science Program.

**Califorensics** 2002-2017. Founder and President of Digital Forensics and Investigative Services firm that served clients nationwide. Sold in 2013 and remained on as Director of Digital Forensics and eDiscovery.

**Perry-Smith LLP**, 2001-2002, Senior Director, Litigation Support and Investigative Services Group. Led the Litigation Support and Investigative Services practice area for Sacramento's largest regional accounting firm. Supported attorneys in civil and criminal litigation.

**Federal Bureau of Investigation**, 1986-2001.

1996-2001, Supervisory Special Agent for the White-Collar Crime and Computer Crimes Squad. Conducted and oversaw the investigation of white collar crime and computer crimes. Achieved successful prosecutions in the areas of Securities Fraud, Bank Fraud, Embezzlement, Intellectual Property Rights, Computer Crimes and Bankruptcy Fraud. Oversaw the largest Intellectual Property Rights case in the FBI. Supervised the FBI Computer Forensics Team (CART) and the FBI participation on the High-Tech Task Force. Supervised an international investigation of a series of computer intrusions into financial institutions, resulting in the arrest and conviction of those involved.

1994-1996, Supervisory Special Agent for the Rapid Start Team. At FBI Headquarters, Washington D.C., managed a team of professionals responsible for the on-site management of major cases and crisis worldwide on over 50 cases at venues from the White House to the Oklahoma City bombing command post. Led a project to develop an automated litigation support package for complex white-collar cases. Assisted with implementing automated analysis for Innocent Images project.

1986-1994, Special Agent. Investigated violent crimes, fugitive matters and white-collar crime. Five year FBI SWAT team member. While assigned as Special Agent, Washington D.C. field office, was the case agent an investigation of an international multi-billion dollar bank fraud (BCCI). Oversaw a team of agents and financial analysts responsible for gathering relevant evidence and tracing proceeds. Conducted investigation and asset tracking throughout the US, England, the Cayman Islands and Abu Dhabi.

***Donald E. Vilfer, JD, CFE***  
***(continued)***

As Assistant Division Counsel, provided legal advice and instruction to FBI Agents in criminal, civil, and employment law areas. Reviewed affidavits for search warrants and court orders.

**Delaware Ohio County Prosecuting Attorney's Office**, 1986. Prosecuted criminal cases and successfully briefed and argued an appeal.

***Education:*** Bachelor of Science, Criminal Justice/Pre-Law, Bowling Green State University, 1982.

Ohio State University College of Law, Juris Doctorate, 1986.  
National Moot Court Team member, advancing to the national level.

***Specialized  
Training:***

Access Certified Examiner (ACE) certification for Computer Forensics and Decryption.

Certified in Physical and Logical Analysis of cell phones and mobile devices along with additional training in cell phone location evidence.

Four months training at the FBI Academy, including courses in White Collar Crime.

50 Hour Certified Fraud Examination course, including investigation, computer crime, law and accounting. Received CFE Certification.

Advanced White-Collar Crime courses during tenure with the FBI.

One week Computer Crimes course for FBI Supervisors.

Advanced Computer Forensics training, including Windows Registry analysis and Mac OS forensics. Incident Response (hacking) training.

Network Forensics and Cell Phone Location training.

FBI Computer Security class.

FBI class for Supervisory Special Agents over Computer Crimes investigations.

Continuing Legal Education Instructor, *Computer Forensics for Attorneys* and other courses

Frequent guest and consultant to media on crime and computer forensics matters.

FBI Instructor for International Law Enforcement Training Academy in Budapest.

***Publication:*** Incorporating Cell Phone Data into Your Investigations  
The AWI Journal-September Vol. 9 No. 3 (2018)

***Affiliations:*** Member of the Ohio Bar (inactive status).  
Member of the Association of Certified Fraud Examiners.

***Expert Testimony:*** Federal Courts, State Courts, FINRA, California Office of Administrative Hearings,